

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANDREA CANTRELL, AS
PARENT/GUARDIAN, AND NEXT FRIEND
OF SADIE CANTRELL, A MINOR,

Plaintiff,

v.

11-CV-00044 KG/SMV

MARIANNE K. ALBASI,

Defendant.

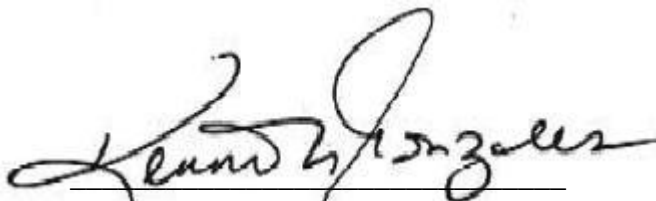
ORDER

On January 13, 2011, Plaintiff Andrea Cantrell (the Plaintiff), as parent/guardian, and next of friend of Sadie Cantrell, a minor, filed a Complaint for Damages, Negligence and for Personal Injury (Diversity Jurisdiction). (Doc. 1). On October 20, 2011, the Plaintiff filed an Amended Motion for Default Judgment. (Doc. 22). On February 29, 2012, the Honorable United States District Court Judge Bruce D. Black granted the Amended Motion for Default Judgment. (Doc. 31). On June 27, 2012, Daniel P. Ulibarri entered his appearance on behalf of Defendant Marianne K. Albasi (the Defendant). (Doc. 38). On February 14, 2013, well over seven months after Mr. Ulibarri's appearance on behalf of the Defendant, the Defendant filed a Motion to Set Aside Default. (Doc. 53).

In the Motion to Set Aside Default, the Defendant does not cite to any legal authority in support of this Court setting aside the Default Judgment. As a result, her Motion to Set Aside Default is denied without prejudice. *See* D.N.M. LR-Cv 7.5(a) ("A motion ... must cite authority in support of the legal positions advanced."). The Defendant is not precluded from filing an amended motion to set aside the Default Judgment. Such motion shall be filed no later than

November 28, 2013. The amended motion to set aside the Default Judgment should address whether, under Fed. R. Civ. P 60(c), the Defendant filed the Motion to Set Aside Default within a reasonable time. If the Defendant fails to file an amended motion to set aside the Default Judgment as ordered by the Court, herein, the Motion to Set Aside Default will be deemed denied with prejudice.

IT IS ORDERED that: (1) the Defendant's Motion to Set Aside Default (Doc. 53), filed February 14, 2013, is denied, without prejudice; (2) on or before November 28, 2013, the Defendant may file an amended motion to set aside the Default Judgment; and (3) if the Defendant fails to file an amended motion to set aside the Default Judgment as the Court has ordered herein, the Motion to Set Aside Default (Doc. 53), filed February 14, 2013, will be denied with prejudice.



UNITED STATES DISTRICT JUDGE